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January 4, 2019

RACHEL PERILLO

Hon. Nicholas G. Garaufis
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Nancy Salzman
18 Cr. 204 (NGG)

Dear Judge Garaufis:

I together with Robert Soloway represent Nancy Salzman in this matter. I write on behalf of all of the defendants to ask the Court to resolve a dispute between the parties regarding the scheduling of the next round of motions. We write requesting a two day extension, from January 7 to January 9, 2019, of the due date for defense motions for severance, suppression, and discovery. The schedule that currently exists for this set of motions was first proposed jointly by the parties in a government letter to the Court on October 3, 2018 (Dkt # 157), and adopted during the status conference in this matter of December 6, 2018. In order to prepare and finalize the defense motions, including distributing drafts among interested counsel, and avoiding duplication of effort and cumulative submissions, the defense requested that the government agree to the two day extension we now seek, and we offered a corresponding extension of the government opposition date to January 23. Finally, we proposed that the defense reply date remain the same, January 30, 2019. The government was willing to agree to our request only on the condition that the date for every other motion in the case schedule be moved back two days, claiming that they will otherwise be prejudiced by the defense request. This claim is without merit.

Presumably, the government has devoted a great deal of time and resources to planning this case, considering what makes it an enterprise, and determining what 404(b) motions and enterprise motions are appropriate. It is therefore difficult to accept that a two day delay in the motions due next week, and a corresponding

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two day delay for the government opposition, will prejudice the government in any way. On the other hand, the two days the defense seeks to use to coordinate among the six defendants in order to file motions as efficiently as possible is eminently reasonable.

The defense opposes the government's insistence that all motions be delayed by two days because of the prejudice it will cause the defendants. At this point in the case, approximately one month away from jury selection, the defense remains in the dark about the substance of the government's case and is desirous of receiving the enterprise disclosures as soon as possible and certainly no later than the date already fixed. As the government repeatedly reminds us, this case alleges a RICO conspiracy and the acts or agreements the government contends from the pattern constituting such a conspiracy may not fully be set forth in the indictment. Thus, the defendants have been unable to begin investigating possible defenses or preparing to confront the evidence the government intends to adduce. The only solution for this, since the government has thus far declined to provide information, is the pending enterprise and 404(b) motion due January 28, 2019. These motions will, for the first time, inform the defendants of the actual alleged acts for which they are being prosecuted and allow them to begin meaningfully preparing for trial. Even with the schedule as it now stands, this information will be revealed perilously close to the commencement of trial. Therefore, an additional two day delay in these crucial disclosures is unwarranted, and prejudicial to the defense.

It is respectfully requested therefore that the Court grant the defendants' application for a two day extension of the due date for the defense motions due next week and leave the remaining dates as currently set.

Should the Court require further information, it is requested that the parties be notified. Thank you for your attention.

Sincerely,

David Stern

cc: All Counsel of Record (By ECF)

DS:sc